ORDINANCES

ISSUED IN THE YEAR 1849,

BY THE

AUTHORITIES IN CHINA.

Presented to both Houses of Parliament by Command of Her Majesty.
August, 1850.

LONDON:
PRINTED BY HARRISON AND SON.

LIST OF PAPERS.

No.			Page
1.	Ordinance for the better obtaining of Evidence in the Consular Courts	June 7, 1849	1
2.	Ordinance to Regulate and Declare the Duties and Office of Consular Agent	July 19, ——	2
3.	Ordinance for the safe and better Custody of Offenders	July 19, ——	3
4.	Ordinance to Repeal Ordinance No. 2 of 1849, and make other provisions in lieu thereof	August 1, ——	4

Digitized with financial assistance from

Ms. Rowena T Robinson

on 29 March, 2019

Ordinances issued in the year 1849 by the Authorities in China.

No. 1.

Ordinance for the better obtaining of Evidence in the Consular Courts.

An Ordinance for Her Majesty's Subjects within the dominions of the Emperor of China, or within any Ship or Vessel at a distance of not more than one hundred miles from the Coast of China.

Anno Duodecimo Victoriæ Reginæ.—No. 1 of 1849.

BY his Excellency Samuel George Bonham, Esquire, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-chief of the Colony of Hong-Kong and its dependencies, and Vice-Admiral of the same, Her Majesty's Plenipotentiary and Chief Superintendent of the Trade of British Subjects in China, with the advice of the Legislative Council at Hong-Kong.

An Ordinance for the better obtaining of Evidence in the Consular Courts in China, and to amend the Ordinance No. 3 of 1847, intituled "An Ordinance to authorize Her Majesty's Consular Officers to adjudicate in Civil Actions." Title.

[June 7, 1849.]

WHEREAS the attainment of proper evidence in the Consular Courts has in some cases been attended with difficulty and inconvenience, or proved impracticable by reason of material witnesses residing beyond the jurisdiction of the Consular Court: and whereas also, by the fourth section of the said Ordinance No. 3 of 1847, it is provided that no evidence shall be admissible on an appeal to the Supreme Court of Hong-Kong from a Consular Court, save and except such evidence as was actually given at the trial of the case in the Court below; and inasmuch as it appears that a party appellant or respondent may at times be able, in cases of appeal, to produce material evidence within the colony and before the said Supreme Court, which the said parties had not the power of so producing before such Consular Court on the original trial: Preamble.

I. Be it enacted and ordained by his Excellency the Governor of Hong-Kong, with the advice of the Legislative Council thereof, That whenever any civil case shall or may be depending before any of Her Majesty's Consuls or Vice-Consuls, and that such Consul or Vice-Consul shall deem it expedient, it shall be lawful and competent for any such Consul or Vice-Consul to issue a Commission for the examination on interrogatories of any witness or witnesses resident within the jurisdiction of the Supreme Court of Hong-Kong: Provided always, that when such witness or witnesses shall be resident within the Colony of Hong-Kong, or at any place within the jurisdiction of the said Court not being a Consular port, such Commission shall be directed to two Justices of the Peace of the said Consuls empowered to issue Commissions for the examination of Witnesses within the jurisdiction of the Supreme Court.

colony, whose names shall be specified in such Commission; and that when such witness or witnesses shall be resident at any one of the Consular ports, then such Commission shall be directed to the Consul or Vice-Consul at such port, or to the person acting on his behalf; and that all such Commissioner or Commissioners shall have full power in all cases to require the party or parties speeding such Commission to procure such interpreters and translators as such Commissioners shall deem fit and proper, in order that they the said Commissioners may transmit the evidence in English, in pursuance of any such Commission.

Means of procuring attendance of Witnesses before Commissioners.

II. And be it further enacted and ordained, That in the event of any person or persons being resident within the said colony or at any place within the jurisdiction of the Supreme Court, not being a Consular port, and refusing to appear before the said Commissioner or Commissioners for the purpose of examination, it shall and may be lawful to and for any party in the suit or action, to apply by petition duly verified by affidavit, to the Chief Justice of the Supreme Court of Hong-Kong, to whom it shall thereupon be lawful to make such order or orders as to him shall seem requisite, touching and respecting the attendance of any such witness or witnesses before such Commissioner or Commissioners; and that in the event of any person or persons resident at any Consular port refusing to appear before the Consul or Vice-Consul for the purpose of examination, it shall be lawful for the said Consul or Vice-Consul to proceed against the person or persons so refusing, in the same manner as if such person or persons had been guilty of contempt of the Consular Court.

Additional Evidence admitted on Appeals from the Consular Courts, under certain circumstances.

III. And be it further enacted and ordained, That notwithstanding the fourth section of the said Ordinance No. 3 of 1847, declaring "that," on the hearing of an appeal by the Supreme Court, "no evidence whatever shall be admissible on such appeal, save and except such as was actually given at the trial of the case in the Court below," it shall and may henceforth be lawful for the said Supreme Court, on the hearing of any appeal either now pending or hereafter to be brought, to admit any additional or further legal evidence besides that adduced at the trial of the case below, on it appearing to the said Supreme Court, by oath or affidavit, that the party desiring to produce such additional evidence was unable so to do at the trial of the case below, after due and reasonable diligence and exertion on the part of the party so applying.

(Signed) S. G. BONHAM.

Passed the Legislative Council of Hong-Kong,
this 7th day of June, 1849.

L. D'Almada e Castro,
Clerk of Councils.

No. 2.

Ordinance to Regulate and Declare the Duties and Office of Consular Agent.

An Ordinance for Her Majesty's Subjects within the diminions of the Emperor of China, or within any Ship or Vessel at a distance of not more than one hundred miles from the Coast of China.

Anno Decimo Tertio Victoriæ Reginæ.—No. 2 of 1849.

BY his Excellency Samuel George Bonham, Esquire, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-chief of the Colony of Hong-Kong and its dependencies, and Vice-Admiral of the same, Her Majesty's Plenipotentiary and Chief Superintendent of the Trade of British Subjects in China, with the advice of the Legislative Council of Hong-Kong.

An Ordinance to regulate and declare the Duties and Office of Consular Agent. Title.

[July 19, 1849.]

WHEREAS it is deemed expedient to make further provisions relative to the office and the duties of Consular Agent: Preamble.

I. Be it therefore enacted and ordained by his Excellency the Governor of Hong-Kong and Chief Superintendent of the Trade of Her Majesty's subjects in China, with the advice of the Legislative Council of Hong-Kong, That from and after the passing of this Ordinance, any person, being a Consular Agent duly appointed or acting as such Consular Agent within the dominions of the Emperor of China, shall, subject to the provisions and exceptions hereinafter contained, possess and have the same jurisdiction and power as is now or shall hereafter be vested in Her Majesty's Consul at the port to which such Consular Agent may be attached; but that such jurisdiction and power shall be only exercised at the station where he may be resident, and such parts adjacent thereto as Her Majesty's said Consul shall from time to time prescribe in writing: Provided always that it shall not only be competent to and for every such Consular or Acting Consular Agent, before or during the hearing of any case or matter which may be brought before him in his official capacity for trial or determination, to remit such case or matter for trial or determination by the said Consul. Provisions as to the Jurisdiction of Consular Agents.

II. And be it further enacted and ordained, That each and every decision made by any such Consular or Acting Consular Agent,—provided that such decision does not impose a penalty or decree a payment exceeding twenty-five dollars, or subject any person to a period of imprisonment exceeding ten days,—may be varied or set aside by an appeal to Her Majesty's Consul or Acting Consul for the time being at the port to which such Agent may be attached, whose decision shall be held and deemed as an original decision or judgment of such Consul or Acting Consul. Appeal to the Consul of the Port in certain cases.

III. And be it further enacted and ordained, That it shall and may be lawful to and for Her Majesty's Chief Superintendent of Trade, by written directions under his hand, from time to time to limit any power or jurisdiction conferred on every such Consular or Acting Consular Agent, by this or any other Ordinance hitherto or hereafter to be passed. Power to Chief Superintendent of Trade to limit Jurisdiction of Consular Agents.

IV. And be it further enacted and ordained, That with respect to all official acts heretofore done by every such Consular or Acting Consular Agent, he and they respectively shall be, and are hereby declared to be, indemnified for the consequence or consequences of all such acts, and to have been duly authorized in the execution of the same, as fully as if he or they had been at the respective periods of doing such act or acts invested with the plenary powers now possessed by Her Majesty's Consuls. Indemnity of Consular Agents.

(Signed) S. G. BONHAM.

Passed the Legislative Council of Hong-Kong,
this 19th day of July, 1849.
L. D'ALMADA E CASTRO,
Clerk of Councils.

No. 3.

Ordinance for the safe and better Custody of Offenders.

An Ordinance for Her Majesty's Subjects within the dominions of the Emperor of China, or within any Ship or Vessel at a distance of not more than one hundred miles from the Coast of China.

Anno Decimo Tertio Victoriæ Reginæ.—No. 3 of 1849.

BY his Excellency Samuel George Bonham, Esquire, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-

chief of the Colony of Hong-Kong and its dependencies, and Vice-Admiral of the same, Her Majesty's Plenipotentiary and Chief Superintendent of the Trade of British subjects in China, with the advice of the Legislative Council of Hong-Kong.

Title. An Ordinance for the safe and better Custody of Offenders sentenced to Imprisonment by any of the Consular Courts in the dominions of the Emperor of China.

[July 19, 1849.]

Preamble. WHEREAS the prisons at the Consular ports in China are at times insufficient for the proper custody and for the due preservation of the health of prisoners:

Power to the Consuls at the respective Ports to transmit persons sentenced to imprisonment to the gaol at Hong-Kong.

I. Be it therefore enacted and ordained by his Excellency the Governor of Hong-Kong and Chief Superintendent of the Trade of Her Majesty's subjects in China, with the advice of the Legislative Council of Hong-Kong, That from and after the passing of this Ordinance it shall and may be lawful to and for any Consul, Vice-Consul, or Consular Agent, having power to pass sentence of imprisonment, to direct and order in his or their direction by such sentence or judgment, that every such prisoner shall and may be by the first suitable opportunity conveyed to Her Majesty's gaol at Victoria in the Colony of Hong-Kong, there to complete and to undergo the period of imprisonment which may be awarded against him or them: Provided always that such Consul, Vice-Consul, or Consular Agent, shall and may have full power to make and give all necessary orders and directions by such judgment or otherwise for the safe custody and conveyance of such prisoner until he can be so lodged in the said Colonial gaol.

Indemnity to Consuls for previous cases of transmission of offenders.

II. And be it further enacted, ordained, and declared, That every such Consul, Vice-Consul, or Consular Agent, who has heretofore sent, or caused to be sent, any prisoner for custody to any of the Colonial goals at Hong-Kong, shall be considered and is hereby declared to be fully indemnified from all or any suit or action at law or otherwise for so doing.

(Signed) S. G. BONHAM.

Passed the Legislative Council of Hong-Kong, this 19th day of July, 1849.

L. D'ALMADA E CASTRO,
Clerk of Councils.

No. 4.

Ordinance to Repeal Ordinance No. 2 of 1849, *and make other provisions in lieu thereof.*

An Ordinance for Her Majesty's Subjects within the dominions of the Emperor of China, or within any Ship or Vessel at a distance of not more than one hundred miles from the Coast of China.

Anno Decimo Tertio Victoriæ Reginæ,—No. 4 of 1849.

BY his Excellency Samuel George Bonham, Esquire, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-chief of the Colony of Hong-Kong and its dependencies, and Vice-Admiral of the same, Her Majesty's Plenipotentiary and Chief Superintendent of the Trade of British Subjects in China, with the advice of the Legislative Council of Hong-Kong.

Title. An Ordinance to repeal the Ordinance No. 2 of 1849, intituled "An Ordinance to regulate and declare the Duties and Office of Consular Agent," and to make other and further provisions in lieu thereof.

[August 1, 1849.]

WHEREAS certain inaccuracies are contained in the said Ordinance No. 2 of 1849, and it is expedient to repeal the said Ordinance and to make other and further provisions in lieu thereof: Preamble.

I. Be it therefore enacted and ordained by his Excellency the Governor of Hong-Kong and Chief Superintendent of the Trade of Her Majesty's Subjects in China, with the advice of the Legislative Council of Hong-Kong, That the said Ordinance No. 2 of 1849 be and the same is hereby repealed. Ordinance No. 2 of 1849 repealed.

II. And be it further enacted and ordained, That from and after the passing of this Ordinance, any person being a Consular Agent duly appointed or acting as such Consular Agent within the dominions of the Emperor of China, shall, at the station where he may be resident and such parts adjacent thereto as Her Majesty's Consul at the port to which such Consular Agent may be attached, shall from time to time prescribe in writing, possess and have, subject to the provisoes and exceptions hereinafter contained, the same jurisdiction and power as is now or shall hereafter be vested in Her Majesty's said Consul: Provided always that it shall be competent to and for every such Consular or Acting Consular Agent, before or during the hearing of any case or matter which may be brought before him in his official capacity for trial or determination, to remit such case or matter for trial or determination by the said Consul. Provisions as to Jurisdiction of Consular Agents.

III. And be it further enacted and ordained, That each and every decision made by such Consular or Acting Consular Agent may be varied or set aside by an appeal to Her Majesty's Consul at the port to which such Consular Agent may be attached, except in cases where the decision of such Consular Agent shall not impose a penalty or decree a payment exceeding twenty-five dollars, or shall not subject any person to a period of imprisonment exceeding ten days. Appeal to the Consul in certain cases.

IV. And be it further enacted and ordained, That in each and every case of such appeal, the decision of the said Consul shall be held and deemed to be an original decision or judgment of such Consul. Consul's decision on Appeal to have effect as an original decision.

V. And be it further enacted and ordained, That with repect to all official acts heretofore done by every such Consular or Acting Consular Agent, he and they respectively shall be, and are hereby declared to be, indemnified for the consequence or consequences of all such acts, and to have been duly authorized in the execution of the same, as fully as if he or they had been, at the respective periods of doing such act or acts, invested with the plenary powers now possessed by Her Majesty's Consuls. Indemnity of Consular Agents.

VI. And for the removal of doubts concerning the jurisdiction of Consuls, be it further enacted and ordained, That all Consuls shall at their several and respective ports have jurisdiction, power, and authority over British subjects within the dominions of the Emperor of China, or within any ship or vessel at a distance of not more than one hundred miles from the coast of China. For the removal of doubts as to the jurisdiction of Consuls.

VII. And be it further enacted and ordained, That it shall and may be lawful to and for Her Majesty's Chief Superintendent of Trade, by written directions under his hand, from time to time to limit any power or jurisdiction conferred on every such Consul, Consular or Acting Consular Agent, by this or any other Ordinance heretofore passed. Power to Chief Superintendent of Trade to limit jurisdiction of Consular Agents.

(Signed) S. G. BONHAM.

Passed the Legislative Council of Hong-Kong,
this 1st day of August, 1849.

L. D'ALMADA E CASTRO,
Clerk of Councils.

Digitized with financial assistance from
Ms. Rowena T Robinson
on 29 March, 2019

CHINA.

Ordinances issued in the year 1849, by the Authorities in China.

Presented to both Houses of Parliament by Command of Her Majesty, August, 1850.

LONDON:
PRINTED BY HARRISON AND SON.